

March 12, 1976

CLERK: Mr. President there are a series of amendments pending to 703. The present pending amendment is amendment number five offered by the committee, as amended by the Dworak amendment, as amended by the Schmit amendment as amended by the Dworak amendment. I believe that there is another amendment to this by Senator Fowler. The next pending amendment then is an amendment by Senator Fowler which is printed on page 1085 of the Legislative Journal, it reads as follows (read).

PRESIDENT: Now, where is that in the white sheet? Commencing where? Where was that?

CLERK: It just says insert in the Schmit amendment section four at the end of the first sentence.

PRESIDENT: Senator Fowler.

SENATOR FOWLER: I would like to try and clarify what I am adding where, if I can. The amendment is on page 1085 of the Legislative Journal. It is amendment to Section four of the Schmit amendment, and section four of the Schmit amendment was what Senator DeCamp proposed yesterday as far as the definition of economic loss. My amendment is to move a section that is at the bottom of the DeCamp or the Schmit amendment, whichever you prefer to call it, to move the section that was at the bottom of that to the end of the first sentence. Currently the end of the first sentence in this section reads as follows. It provides a definition of economic loss. It says, "Economic loss as used in this act refers to the general or special losses which have a direct affect on the plaintiff's present or future ability to earn. It might impair the plaintiff's ability of his or her preparations to attain an earning capacity or which pertain to his or hers present or future financial conditions in any way". I wish to add the phrase at the end of that and also includes loss of any other benefits which could reasonably afflow to the injured party at any time in the future in the absence of the wrongful act involved. My hope is to try and clarify which seemed impossible to clarify yesterday in the exchange between Senator Cavanaugh and Senator DeCamp and Senator Schmit as to what in fact are the damages that you can recover for. This does not affect the question as to what is malpractice, or what are the standards of malpractice, it just simply affects how much you can collect and what criteria are used to decide on that amount, once malpractice has been decided. Currently as I interpret Senator DeCamp's amendment to Senator Schmit's amendment it makes the criteria strictly economic losses. It says again that those losses which have a direct effect on the plaintiff's present or future ability to earn, that is clearly economic. It says might impair the plaintiff's ability in his or her preparations to attain an earning capacity. Again, it relates back to your ability to hold a job. The final criteria in the Schmit amendment which pertain to his or her present or future financial